

**HELM**  
**FINANCIAL CORPORATION**

One Embarcadero Center • San Francisco, CA 94111  
415/398-4510 FAX 415/398-4816

July 26, 2001

Mr. Vernon Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423

RECORDATION NO. 23602 FILED  
AUG 3 '01 11-25 AM  
TS  
SURFACE TRANSPORTATION BOARD

Dear Mr. Williams:

Enclosed for recording with the Surface Transportation Board is a Certification of True Copy of the Full Maintenance Lease Agreement dated as of July 13, 2000 between the following parties:

Lessor: Helm Financial Corporation  
One Embarcadero Center, Suite 3700  
San Francisco, Ca 94111

Lessee: Petroleum Coke Grinding, Inc.  
c/o Cemex Mexico, S.A.de C.V.  
Avenue Gomez Morin No. 350  
Plaza Internacional Cedetel Piso 8  
Col. Valle del Campestre  
66265 Garza Garcia, N.L., Mexico

Equipment: 20 Covered Hopper Railcars  
HLMX 750036-750447 (NI)

Please record this Certification of True Copy of the Full Maintenance Lease Agreement as a primary document. The filing fee of \$28.00 is included in our enclosed check No. 45755 in the amount of \$140.00.

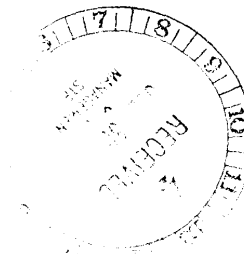
Summary: Certification of True Copy of the Full Maintenance Lease Agreement dated as of July 13, 2000 between Helm Financial Corporation as Lessor and Petroleum Coke Grinding, Inc. as Lessee for 20 covered hopper railcars, HLMX 750036-750447 (NI) to be filed as a primary agreement.

Yours truly,



Sharon L. Van Fossan  
Supervisor Contract Administration

Enclosures (2)




RECORDATION NO. 23602 FILED

CERTIFICATION OF TRUE COPY

AUG 3 10: 11-25 AM

**SURFACE TRANSPORTATION BOARD**

On April 24, 2001, I, Cecilia Mostaghim, have examined the original copy of the **FULL MAINTENANCE LEASE AGREEMENT** dated as of July 13, 2000 between **HELM FINANCIAL CORPORATION** and **PETROLEUM COKE GRINDING, INC.** I hereby certify that I have compared the attached duplicate copy with the original and that it is a complete, true and correct copy of the original in all respects, including the dates, signatures and acknowledgments thereof.

  
Cecilia Mostaghim  
Contract Administrator

STATE OF CALIFORNIA           )  
  ) S.S.  
COUNTY OF SAN FRANCISCO   )

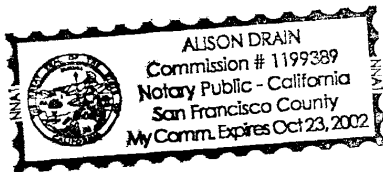
On April 24, 2001, before me, Alison Drain, personally appeared Cecilia Mostaghim, Contract Administrator, of **HELM FINANCIAL CORPORATION**,

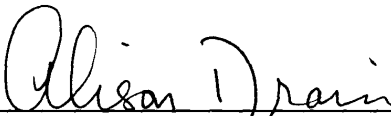
  X   personally known to me -OR-

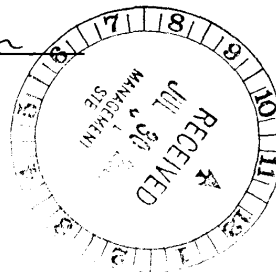
       proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



  
SIGNATURE OF THE NOTARY



[Notary Seal]

RECORDATION NO. 23602 FILED

AUG 3 '01 11-25 AM

SURFACE TRANSPORTATION BOARD

FULL MAINTENANCE LEASE AGREEMENT

BETWEEN

HELM FINANCIAL CORPORATION

AND

PETROLEUM COKE GRINDING, INC.

*264*

FULL MAINTENANCE LEASE AGREEMENT

THIS FULL MAINTENANCE LEASE AGREEMENT ("Lease") is dated as of July 13, 2000, between HELM FINANCIAL CORPORATION, a California corporation ("Lessor"), and PETROLEUM COKE GRINDING, INC., a Texas corporation ("Lessee").

1. Lease. Subject to the terms and conditions of this Lease, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the rail equipment described in Schedule A attached hereto (the "Unit(s)").

2. Inspection, Delivery & Acceptance of Units.

(a) Inspection. Lessor shall furnish the Units to Lessee in compliance with the regulations of the Federal Railroad Administration, the Association of American Railroads ("AAR") rules of interchange in effect at the time of delivery ("Rules"), Schedule A and free of AAR Rule 95 damage (collectively, "Delivery Condition"). At its expense, Lessee shall have the right to inspect and accept or reject the Units prior to the transport of the Units from their present location at the Metro East Industries, Inc. repair facility in East St. Louis, Illinois ("Delivery Point"). If any Unit(s) inspected by Lessee is not in fact in Delivery Condition, Lessee shall promptly notify Lessor in writing of such noncompliance and Lessor shall have the option to either promptly repair or replace such Unit(s) at Lessor's expense or to exclude such Unit(s) from this Lease.

(b) Delivery & Acceptance. On the date Lessor at its expense delivers the Units to Lessee at the Delivery Point ("Delivery Date"), Lessee agrees to accept all such Units which are in Delivery Condition. Lessee shall declare its acceptance of each Unit(s) by delivering to Lessor an executed "Certificate of Acceptance" in the format as set forth in Exhibit A attached hereto, which shall constitute conclusive evidence of Lessee's acceptance of each Unit therein identified and that such Unit(s) is in Delivery Condition. If Lessee fails to execute a Certificate of Acceptance within five (5) business days of the Delivery Date for any Unit(s) or if Lessee moves or loads any Unit(s), whichever occurs first, Lessee will be deemed to have accepted all Units so delivered. Upon acceptance of each Unit(s), Lessee shall take possession of and assume control over such Unit(s). Lessee shall be responsible for all costs associated with the transport of each accepted Unit after the Delivery Date until expiration or earlier termination of this Lease.

(c) Installation of Hatch Rings. Subsequent to the Delivery Date and at its sole expense, Lessee will have installed on each Unit 20" round hatch coming rings inside the square ATP Hatches (as defined in Schedule A hereto).

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SURFACE TRANSPORTATION BOARD

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3. Term; Renewal.

(a) Term of this Lease. The term of this Lease for each accepted Unit shall commence on the Delivery Date for such Unit and shall continue in full force and effect for all delivered and accepted Units through and including ("Term").

(b) Renewal Option. If no Event of Default has occurred and is continuing under the Lease, the parties may extend the Term of this Lease beyond with respect to any remaining Unit(s) ("Renewal"); provided, however, that Lessee and Lessor mutually agree in writing on or before of their intention to negotiate such Renewal. The Renewal rental rate shall be based upon the then fair market value for the Units and the terms, conditions and such rental rate of the Lease shall be mutually agreed upon between Lessor and Lessee.

4. Rent. Upon the Delivery Date for each Unit, Lessee shall pay to Lessor a monthly rent for each Unit in the amount of per Unit per month, payable on the first day of each month in advance ("Rent"). Rent shall continue in effect for each Unit, until such Unit is returned to Lessor in accordance with the terms of this Lease. Rent shall be pro-rated on a daily basis if the Delivery Date or return date for any Unit is other than on the first day of any month. All payment of Rent shall be made directly to Lessor at its address for notices hereunder.

5. No Abatement. Except as otherwise provided in Sections 9, 12, 13 and/or 25 of this Lease, or as otherwise ordered by a court of competent jurisdiction, Lessee's obligation to pay all Rent and other sums when due and to otherwise perform its obligations under this Lease is absolute and unconditional, and shall not be subject to any abatement, reduction, set-off, defense, counterclaim, interruption, deferment or recoupment, for any reason whatsoever, including, but not limited to, (a) any past, present or future claims of Lessee against Lessor under this Lease or otherwise, (b) any defect in, damage to, loss of use or possession of, or destruction of any Unit from whatsoever cause, (c) the prohibition of or other restriction against Lessee's use of any Units, (d) the interference with such use by any private person, entity or governmental authority, (e) the invalidity, unenforceability, or lack of due authorization of this Lease, or (f) for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Rents and other payments payable by Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided. Each Rent or other payment made by Lessee hereunder shall be final and Lessee shall not seek to recover all or any part of such payment from Lessor for any reason whatsoever. The Rent and other sums payable by Lessee hereunder shall be paid without notice, demand, counterclaim, or defense.

6. Car Hire Earnings. Upon delivery of the Units bearing reporting marks on each Unit in accordance with Section 7, Lessee shall enjoy all car hire earnings (per diem and/or mileage) until the

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expiration or earlier termination of this Lease. If the Units bear reporting marks other than Lessor's, Lessor shall not be responsible for collection of any car hire earnings and such responsibility shall lie solely with Lessee. If the Units bear Lessor's reporting marks, Lessor shall forward to Lessee such car hire earnings attributable to the Units which are received by Lessor.

7. Identification Marks. Lessee will keep each Unit marked with the identifying mark and number as set forth in Schedule A hereto. If Lessor supplies Lessee with labels, plates, or other markings evidencing ownership, security or other interest in the Units, Lessee shall affix and keep the same displayed on the Units. Lessee will not change the identifying mark or number of any Unit without the prior written consent of Lessor. If Lessor consents thereto, Lessee shall at the direction of Lessor prepare a statement of new identifying marks and numbers to be filed, recorded or deposited by Lessee in all public offices where this Lease will have been filed, recorded and deposited and as Lessor shall reasonably request. Except as herein provided, Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

8. Taxes. Lessee shall pay when due (or reimburse to Lessor), and on a net after-tax basis shall indemnify and defend Lessor from and against any and all fees, taxes and governmental charges of any nature including, without limitation, Mexican withholding and asset taxes, customs, duties, liens, encumbrances, interest, penalties, fines and assessments (collectively, "Taxes") which may now or hereafter be imposed or levied by any foreign, federal, state, provincial or local authority upon Lessor, Lessee, or the Units (including, without limitation, the transportation, delivery, installation, leasing, possession, use, operation, storage and return of such Units or solely by reason of Lessor's ownership thereof). Lessee shall have no responsibility for any Taxes on or measured by Lessor's net income. Lessee will pay promptly all Taxes which may be imposed upon Lessee's income and earnings arising from or connected with this Lease or the Units.

9. Risk of Loss; Casualty Occurrence.

(a) Risk of Loss, Damage or Destruction. Lessee hereby assumes all risk of (i) loss, damage, theft, or destruction, partial or complete, of or to each accepted Unit, or (ii) any taking, confiscation, requisition or commandeering which takes place outside of the territory of the United States, however caused or occasioned, such risk to be borne by Lessee from the Delivery Date until such Unit has been returned to Lessor in accordance with the return provisions of this Lease. Except as otherwise provided herein, Lessee agrees that no occurrence specified in the preceding sentence shall impair, in whole or in part, any obligation of Lessee under this Lease, including, without limitation, the obligation to pay Rent.

(b) Casualty Occurrence. During the Term if any Unit shall be or become (i) lost, stolen, destroyed or irreparably damaged from any

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cause whatsoever, or (ii) condemned, confiscated, requisitioned or otherwise seized while such Unit is outside of the territory of the United States (collectively, a "Casualty Occurrence"), Lessee shall on the next succeeding Rent payment date after it shall have determined that such Unit has suffered a Casualty Occurrence, fully inform Lessor in regard thereto. On such date Lessee shall pay to Lessor an amount equal to any accrued Rent for such Unit through the date of such payment. Lessee shall also pay to Lessor a settlement value as specified in the Casualty Schedule attached hereto as Schedule B ("Settlement Value"). Upon Lessee's payment of such Settlement Value for any Unit, the Rent for such Unit shall cease to accrue as of the date of such payment, the Lease for such Unit shall terminate, and Lessee shall be entitled to ownership and possession of such Unit or the remains thereof on an as-is, where-is basis without recourse or warranty; provided, however, that Lessor shall have no obligation to provide Lessee with possession of a Unit that has been lost, stolen or completely destroyed. Lessor has the right, but not the obligation, to replace any Unit subject to a Casualty Occurrence and any such replacement Unit will be subject to this Lease as if originally a part thereof, subject to Lessee's right of inspection. Notwithstanding anything herein to the contrary, for any casualty Unit Lessee shall not be released from any obligation or duty under this Lease arising on or prior to Lessee's payment of the Settlement Value.

10. Inspection. At the sole expense of Lessor, Lessor or its agent, shall have the right to inspect the Units and Lessee's records with respect thereto at such reasonable times and places during Lessee's normal business hours, as Lessor may request.

11. Warranties; Waiver. So long as no Event of Default has occurred and is continuing, Lessor warrants that neither Lessor nor its successors and assigns will interfere with Lessee's quiet enjoyment and use of the Units during the Term. Notwithstanding anything in this Lease to the contrary, LESSOR LEASES AND LESSEE ACCEPTS THE UNITS AS-IS, AND LESSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND RESPECTING THE UNITS WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED AND LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED BY VIRTUE OF HAVING LEASED THE UNITS PURSUANT TO THIS LEASE TO HAVE MADE, ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF WORKMANSHIP IN THE UNITS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND LESSOR SHALL NOT BE LIABLE, IN CONTRACT, TORT OR OTHERWISE, ON ACCOUNT OF ANY MANUFACTURER'S OR OTHER DEFECT, WHETHER HIDDEN, LATENT OR OTHERWISE DISCOVERABLE OR NONDISCOVERABLE RESPECTING ANY UNITS. LESSEE HEREBY WAIVES ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT OR ABSOLUTE LIABILITY IN TORT) IT MIGHT HAVE AGAINST LESSOR FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGE) OR EXPENSE CAUSED BY THE UNITS. LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE UNITS AND THAT LESSEE ACCEPTS THE UNITS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS.

12. Compliance with Laws and Rules.

(a) Operating Regulations. For the benefit of Lessor, Lessee agrees to comply with all laws, rules, regulations, decrees, or orders which may apply to the operation or use of any Unit, including, but not limited to, the rules and regulations of the AAR, FRA and the Surface Transportation Board of the Department of Transportation ("STB") or any other legislative, executive, regulatory, administrative or judicial body exercising any power or jurisdiction over any such Unit (collectively, "Laws"). Lessee may in good faith contest the validity or application of any such Laws in any reasonable manner which does not, in the reasonable opinion of Lessor, materially and adversely affect Lessor's rights under this Lease or Lessor's property rights in the Units.

(b) Mandated Modifications. If any new Laws or changes to Laws existing at the execution date of this Lease require the modification, alteration or repair of any Unit other than "running repairs" as defined in Appendix A to the Field Manual of the A.A.R. Interchange Rules (each a "Mandated Modification"), the application of such Mandated Modification will be the sole responsibility of, and at the sole expense and risk, of Lessor. Subject to the final sentence of this clause (b), Lessee agrees to pay, as additional rent, \$1.60 per Unit per month for each \$100 expended by Lessor in making Mandated Modifications to such Units. Such obligation of Lessee shall arise on the date that the Unit is released from the shop after application of the Mandated Modifications. Rental on a Unit shall abate during the time such Unit is removed from Lessee's use for the application of Mandated Modifications. If Lessor determines that the cost of making Mandated Modifications is not economical, and Lessor elects to permanently remove the Unit from Lessee's service, the rent for such Unit will terminate on the removal date determined by Lessor. Further, if the application of any Mandated Modification(s) shall increase the Rent for any Unit or Units to an amount equal to or greater than \$436 per month, Lessee shall have the option of terminating this Lease with respect to each such Unit.

13. Maintenance; Alteration; Accessions.

(a) Maintenance. During the Term, commencing on the Delivery Date, Lessor shall pay for the cost and expense of all maintenance and repair work (other than transportation charges to and from the repair facility) necessary to maintain each Unit in good operating condition, in conformity with all applicable laws and regulations including the AAR Code of Interchange Rules and FRA Railroad Freight Unit Safety Standards, 49 CFR Part 215, as amended, except for the following:

(i) repairs required as a result of damage caused by Lessee, its agents, representatives, customers, independent contractors or any third party; or

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(ii) repairs required because of damage caused to the Units by any corrosive or abrasive substance loaded therein or used in connection therewith; or

(iii) repairs required because of excessive, unusual or avoidable damage caused to the Units by open flames, shakers, sledges, forklifts or other similar devices during loading or unloading operations; or

(iv) repairs required because of excessive or unbalanced loading; or

(v) repairs required because of damage to or missing safety appliances, specialty items, hatch covers, outlet gates and removable parts or attachments;

(vi) repairs required due to Rule 95 damage as defined in the AAR Field Manual of the Interchange Rules.

If Units in possession of Lessee are in need of repairs for which Lessee is responsible hereunder, Lessee shall contact Lessor and advise, at Lessee's sole option, whether Lessee desires to perform such repairs or have such repairs performed at its expense. If Lessee decides not to repair such Units, Lessor will either repair the Units or subcontract for the repairs. Lessee shall be responsible only for the invoice price, if repairs are subcontracted, or for actual costs (but not to exceed AAR charges) if performed by Lessor.

Lessee will make the Units available to Lessor at a repair shop specified by Lessor at any reasonable time for the purpose of repairs. Lessee shall as promptly as practical deliver Units requiring repairs which Lessor is required to make to the repair shop specified by Lessor. Lessee shall make Units available for inspection or maintenance in accordance with its operating convenience and at its own expense.

If there is any dispute as to who is responsible for repairs to any Unit, the completion of such repairs by a party shall not constitute an admission of responsibility, but instead such party may still assert its claims that the other party was responsible.

Lessee will review any suggestions made by Lessor regarding operating conditions that might be causing undue and avoidable wear or damage to the Units and will implement those suggested changes that are reasonable under the circumstances.

Lessor reserves the right to retire any Unit that in its sole opinion it deems uneconomical to repair. Lessee's obligation to pay Rent shall abate for any Unit retired by Lessor as of the date on which it is retired or when such Unit is delivered to the repair shop, whichever occurs first.

(b) Alteration; Accessions. Lessee shall not materially alter, nor allow any third party to materially alter, the physical structure of any Unit without the prior written consent of Lessor, which consent

shall not be unreasonably withheld. All additions, alterations, improvements or replacements to any Unit made by Lessee shall constitute accessions to such Unit and belong to Lessor unless otherwise agreed by the parties in writing.

14. Insurance. Until Lessee returns all Units in accordance with the terms of this Lease, at its sole expense, Lessee shall cause to be carried and maintained: (a) all-risk, physical loss or damage insurance for each Unit in a minimum amount equal to the aggregate Settlement Value of each Unit; and (b) public liability insurance in a minimum amount of twelve million dollars (\$12,000,000.00) per occurrence for personal injury, wrongful death and property damage, in each case for such risks and with such insurance companies as are reasonably satisfactory to Lessor. All insurance policies shall be in the name of Lessee and shall (a) name Lessor as loss payee for the all risk insurance and as additional insured for liability insurance, and (b) provide Lessor with thirty (30) days' prior written notice before coverage lapses, is canceled or materially changes. If Lessee fails to obtain insurance, or if said insurance lapses or is canceled, Lessor has the right to purchase the insurance described above and Lessee shall pay the cost thereof. Lessee's insurance policies shall be primary to any other insurance of any additional insureds ("Other Insurance"). Lessee shall require its insurer to specifically waive subrogation, claim and recovery for any Other Insurance. Any deductibles in the above described policies shall be paid by Lessee. Lessee shall furnish to Lessor (a) concurrently with execution hereof, (b) within thirty (30) days of receipt of a written request from Lessor, and (c) at intervals of not more than twelve (12) calendar months from execution hereof, Certificates of Insurance evidencing the aforesaid insurance. Lessee shall provide Lessor a certified copy of each insurance policy upon written request.

15. Indemnification. Lessee shall indemnify, defend and hold harmless Lessor and its officers, shareholders, affiliates, directors, attorneys, employees and agents from and against any and all costs, expenses, losses, taxes, penalties, obligations, claims, damages, actions or other liabilities (including but not limited to reasonable counsel fees and expenses, and tort and strict liability claims) which Lessor may incur (unless resulting from Lessor's, or Lessor's agents, gross negligence or willful misconduct) in any way relating to, arising from or by reason of (a) this Lease or the use, operation, condition, delivery, rejection, storage, or return of any Unit, until such Unit is returned to Lessor in accordance with the terms of this Lease, (b) any accident, personal injury, death, property damage or other liability involving any Unit, on or after the Delivery Date until such Unit is returned to Lessor in accordance with the terms of this Lease, (c) the breach by Lessee of any of its agreements, representations, warranties or covenants contained in this Lease or any agreements collateral thereto. The indemnities hereunder shall survive payment or performance of all other obligations under this Lease or the expiration or earlier termination of this Lease for a period of five years. Lessee shall give Lessor prompt written notice of any event or condition in connection with which Lessor may be entitled to indemnification hereunder.

16. Reports. Within a reasonable time prior to the required date of filing, Lessee agrees to prepare and to deliver to Lessor (or to the extent permissible file on behalf of Lessor) any and all mandatory reports of which Lessee has or reasonably should have actual knowledge which are required to be filed by Lessor with any foreign, federal, state, provincial or other regulatory authority by reason of the ownership by Lessor of the Units or the leasing of the Units to Lessee except Lessor's income tax reports. Lessor shall notify Lessee of any such reports of which Lessor has actual knowledge.

17. Financial Information. Lessee agrees to furnish to Lessor (a) within one hundred twenty (120) days after the close of each fiscal year, its audited consolidated financial statements including its most recent balance sheets, statements of income, retained earnings and changes in financial position for the fiscal year then ended, each prepared in accordance with United States generally accepted accounting principles consistently applied ("GAAP"); all of which shall be certified by Lessee's independent auditors (or if unavailable by the president or chief financial officer), to be in accordance with GAAP; and (b) promptly from time to time such other information concerning the business, condition and affairs of Lessee as Lessor shall reasonably request.

18. Liens. At its sole expense, Lessee will keep the Units or any part thereof free and clear of any and all liens, security interests, charges, claims or other encumbrances ("Liens") except those caused by acts or omissions of the Lessor. Lessee will promptly pay, satisfy and otherwise take such actions as may be reasonably necessary to keep the Units free and clear of, and to duly discharge, eliminate or bond in a manner satisfactory to Lessor, any Liens which may arise except those caused by acts or omissions of the Lessor. Lessee will promptly notify Lessor in writing if it has knowledge of any Lien that shall attach to any Unit, and of the full particulars thereof. The Units are and shall at all times be the property of Lessor and Lessee shall have no right, title or interest in the Units except as set forth in this Lease. This Lease shall constitute a lease of personal property, and Lessee agrees to take all action necessary or appropriate as reasonably requested by Lessor to ensure that the Units shall be and remain the personal property of Lessor.

19. Return.

(a) Return. On or about the expiration of the Term, Lessor shall provide to Lessee notification to return the Units. Within ten (10) calendar days of receipt of such notice and at its sole expense, Lessee will deliver possession of the Units to Lessor at Dittlinger, Texas ("Return Point"). Subject to Section 9, Lessee shall return each Unit to Lessor (i) in as good condition, order and repair as when delivered to Lessee, ordinary wear and tear excepted, (ii) in condition suitable for movement in the interchange system free from all FRA defects and in conformity with all applicable laws, rules and regulations, (iii) free of AAR Rule 95 damage, and (iv) free from all accumulations from commodities transported in or on it while in the service of Lessee. Lessee shall, at its expense and risk, assemble and hold each assembled

Unit ("Assembled Unit(s)") at the Return Point. Lessee shall provide to Lessor written notice that the Assembled Units are available for inspection, and Lessor and Lessee shall within five (5) days of Lessor's receipt of such notice or, as mutually agreed otherwise, arrange and conduct a joint inspection of the Assembled Units to determine the return condition of such Assembled Units. Upon the date each Assembled Unit is inspected and accepted by Lessor, at Lessor's direction, Lessee shall, at Lessor's expense, transport the accepted Assembled Units from the Return Point to any reasonable place on the lines of any connecting carrier for shipment as reasonably directed by Lessor. Lessor will not unreasonably withhold or delay its acceptance of any one or more of the Assembled Units.

(b) Holdover Rent. If upon the expiration or earlier termination of this Lease Lessor demands in writing the return of any Unit(s) to the Return Point and Lessee fails to deliver such Unit(s) to the Return Point within ten (10) calendar days of receipt of such notice, then Rent shall cease and Lessee shall immediately commence to pay to Lessor (as liquidated damages for the loss of the benefit of Lessor's bargain and not as a penalty) a monthly late fee equal to one hundred fifty percent (150%) of the monthly rental rate for such Unit(s) existing at the expiration or termination of this Lease until such Unit(s) is delivered to the Return Point. Lessee shall bear all risk of damage or loss to such Unit(s) or any third party liability connected with or related to such Unit(s) and Lessee shall comply with all conditions, covenants and agreements of the Lease to the same extent as if the Lease were still in effect until such Unit(s) is delivered to Lessor at the Return Point. Upon the expiration or termination of this Lease, Lessee shall not have the right to use or operate any Unit(s) except to the extent necessary to comply with the provisions of this Section 19.

(c) Specific Performance. The assembly, delivery, storage and transport of the Units as provided in this Section 19 are of the essence of this Lease, and upon application to any court of equity having jurisdiction over the Units, Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of this Section. If Lessee shall for any reason fail to deliver any Unit to Lessor within 180 days after the expiration or earlier termination of this Lease, Lessor shall have the option to declare that such Unit has suffered a Casualty Occurrence.

20. Default. Each of the following shall constitute an "Event of Default" under this Lease:

(a) Lessee fails to make any payment of any part of the Rent or any other amount payable to Lessor under this Lease and such nonpayment continues for ten (10) calendar days after written notice thereof;

(b) Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any part thereof;

(c) Lessee fails to perform or observe any term, covenant, condition or agreement contained in this Lease or any document

collateral thereto and such failure continues uncured for thirty (30) calendar days after written notice thereof from Lessor;

(d) Any representation or warranty made by Lessee in this Lease or in any document collateral thereto shall be false at any time in any material respect;

(e) Lessee ceases doing business as a going concern or transfers all or a substantial part of its assets other than to an affiliate of Lessee; or becomes or is adjudicated insolvent or bankrupt, admits in writing its inability to pay its debts as they become due, or makes an assignment for the benefit of creditors; or Lessee applies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer is appointed without the consent of Lessee; or Lessee institutes any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or any such proceeding is instituted against Lessee and is not dismissed within thirty (30) calendar days; or any judgment, writ, warrant or attachment or execution of similar process is issued or levied against a substantial part of Lessee's property and remains unsatisfied for thirty (30) calendar days.

## 21. Remedies.

(a) Events of Default. Subject to Lessor's duty to use reasonable efforts to mitigate its damages, upon the occurrence of any Event of Default, Lessor may, with or without notice to Lessee, exercise any one or more of the following remedies, as Lessor in its sole discretion shall elect:

(i) proceed by appropriate court action(s) either at law or in equity, to enforce Lessee's performance under this Lease or to recover damages for the breach thereof;

(ii) by notice in writing to Lessee terminate this Lease, whereupon all rights of Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but Lessee shall remain liable as herein provided (subject, however, to Lessor's obligation to mitigate damages);

(iii) require Lessee, at Lessee's expense, to return any or all of the Units in accordance with the return provisions of this Lease, or Lessor or its agent, at its option may in a reasonable manner and without damage to the property of Lessee or any third party enter upon the premises of Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its sublessee(s), successors or assigns, to use the Units for any purposes whatsoever;

(iv) recover from Lessee, as liquidated damages for loss of the benefit of its bargain and not as a penalty, an amount (the "Default

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Payment") equal to the sum of: (A) all accrued and unpaid Rent and other amounts due under this Lease through the date Lessor declared an Event of Default, plus (B) the present value (discounted at a rate of six percent (6%)) per annum of all remaining amounts to be paid under this Lease for the balance of the Term, plus (C) interest on the sum of items (A) and (B) accruing from the date Lessor declared an Event of Default through the date Lessor receives such payment, plus (D) the amount of any recapture of tax benefits to be incurred by Lessor as a result of the termination of this Lease, as reasonably estimated by Lessor and notified by Lessor to Lessee;

(v) sell by public or private sale, release, hold, retain, or otherwise dispose of the Units in any manner Lessor chooses, free and clear of any claims or rights of Lessee; and

(vi) exercise any other right or remedy then available to Lessor at law or in equity.

(b) Interest. In the event Lessee shall be in default in the payment of Rent or any other amount due under this Lease, Lessee shall pay Lessor as additional rental interest on such unpaid sum from its due date to the date of payment by Lessee at a rate equal to eighteen percent (18%) per annum or the maximum rate permitted by law, whichever is less.

(c) Return in the Event of Default. If this Lease shall terminate pursuant to this Section, Lessee shall forthwith deliver possession of the Units to Lessor. The condition of the Units upon such return shall be as required pursuant to Section 19 hereof. For the purpose of delivering possession of any Unit to Lessor as herein required, Lessee shall at its own cost, expense, and risk:

(i) forthwith place such Units upon such storage tracks as Lessor reasonably may designate or, in the absence of such designation, as Lessee may reasonably select;

(ii) permit Lessor to store such Units on such tracks for a period not exceeding 90 days; and

(iii) transport the same, at any time within such 90 day period, to any connecting carrier for shipment (at Lessor's sole cost, risk and expense) as reasonably directed by Lessor.

(d) Cumulative Remedies. No remedy referred to in this Lease is intended to be exclusive, but each shall be cumulative and concurrent to the extent permitted by law, and shall be in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. No failure or delay on the part of Lessor to exercise any right or remedy hereunder shall operate as a waiver thereof. No express or implied waiver by Lessor of any default or breach shall constitute a waiver of any other or subsequent default or breach by Lessee, or a waiver of any of Lessor's rights. If Lessee fails to pay or otherwise perform any of its obligations under this Lease, Lessor may, but shall not be obligated to, pay such amounts or perform such obligations for

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the account of Lessee without thereby waiving Lessor's right to declare an Event of Default. In any such event, Lessee shall immediately upon demand reimburse Lessor for any such costs and expenses incurred by Lessor.

(e) Costs of Default. In addition to the above and in all cases, Lessee shall be liable for all reasonable costs, expenses and damages incurred by Lessor by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including, but not limited to, all reasonable attorneys' fees and costs whether or not court proceedings are brought, costs related to the repossession, storage, repair and disposition of the Units, and all incidental and consequential damages.

(f) Power of Attorney. Upon an Event of Default or at any time Lessee is obligated under the terms of this Lease to deliver possession of any Unit(s) to Lessor, Lessee hereby irrevocably appoints Lessor as the agent and attorney of Lessee, with full power and authority, to demand and take possession of such Unit(s) in the name and on behalf of Lessee from whosoever shall be at the time in possession of such Unit(s). In connection therewith Lessee will supply Lessor with such documents as Lessor may reasonably request.

## 22. Assignment and Use.

(a) Assignment by Lessor. Lessor may, without the consent of and without notice to Lessee, assign or sell its interest in, grant a security interest in, or otherwise transfer in whole or in part this Lease, any Unit or any of its rights, interests or obligations with respect thereto, including, without limitation, all Rent and other sums due or to become due to one or more persons or entities. Lessee shall be under no obligation to any assignee of Lessor except upon written notice of such assignment from Lessor. In conjunction with any assignment of this Lease by Lessor, Lessee hereby agrees to promptly provide any reasonable documentation requested by Lessor.

(b) Assignment by Lessee. So long as Lessee shall not be in default hereunder, Lessee may sublease or assign any one or more of the Units (1) to any of its subsidiaries or affiliates organized under the laws of the United States and (2) with the prior written consent of Lessor, which consent shall not be unreasonably withheld, sublease or assign any one or more of the Units or assign this Lease to third parties (including Lessee's Mexican subsidiaries and affiliates), provided, that (i) such sublease or assignment shall provide that the subject Units shall be operated and maintained in accordance with the terms hereof; (ii) Lessee shall provide Lessor with at least ten (10) business days advance written notice of any such sublease or assignment and a copy of such proposed sublease or assignment document; (iii) such sublease shall be subject and subordinate to the terms and provisions of this Lease and the interests of Lessor; and (iv) no such sublease or assignment shall relieve Lessee of its obligations hereunder, which shall remain those of a principal and not a surety. For purposes hereof an assignment shall be deemed to include any sale, transfer or assignment of this Lease by operation of law or otherwise or any

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material change in the beneficial ownership of Lessee. Except as permitted under this subsection, Lessee may not otherwise transfer or encumber its leasehold interest under this Lease in the Units. Lessee shall not, without the prior written consent of Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by this subsection.

(c) Restrictions on Use. Lessee covenants and agrees at all times that: (i) Lessee will not sublease or assign this Lease to any person or entity that is not a United States citizen or incorporated under the laws of a state of the United States, (ii) Lessee will not use or operate the Units outside of the United States, (iii) Lessee will use and operate the Units only in the ordinary conduct of its business by qualified employees of Lessee and in accordance with all applicable operating instructions for any Unit, including, but not limited to, the cargo weight limits stenciled on each Unit, and (iv) Lessee will maintain sufficient records to verify such use, which records will be furnished to Lessor within thirty (30) days after receipt of a written request therefor. Lessee agrees to not load or use any Unit to transport any hazardous material as defined in any federal, state or local environmental law or regulation. Notwithstanding the foregoing provisions of clause (ii) of this Section 22(c), Lessor hereby authorizes Lessee to use the Units in Mexico, *provided, however*, that each Unit shall be used in the United States for not less than 51% of the time it is subject to this Lease.

### 23. Representations & Warranties.

(a) Representations and Warranties of Lessee. Lessee represents and warrants to Lessor that (a) Lessee is a corporation duly organized, validly existing and in good standing under applicable state law, with adequate corporate power to enter into this Lease; (b) this Lease has been duly authorized, executed and delivered by Lessee and constitutes a valid, legal and binding agreement, enforceable in accordance with its terms; (c) the execution and performance of this Lease will not contravene, breach or create a material default under any legal, organizational or contractual obligation of Lessee or any law, rule, regulation, judgement or order binding upon Lessee or its property; (d) there are no pending or, to the knowledge of Lessee, threatened actions or proceedings before any court or administrative agency that could have a material adverse effect on Lessee, nor is Lessee in default under any material loan, lease or purchase obligation; and (e) the financial statements and other information furnished and to be furnished to Lessor are and will be true and correct.

(b) Representations and Warranties of Lessor. Lessor represents and warrants to Lessee that (a) Lessor is a limited partnership duly organized, validly existing and in good standing under applicable state law, with adequate corporate power to enter into this Lease; (b) this Lease has been duly authorized, executed and delivered by Lessor and constitutes a valid, legal and binding agreement, enforceable in accordance with its terms; (c) the execution and performance of this Lease will not contravene, breach or create a material default under any

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legal, organizational or contractual obligation of Lessor or any law, rule, regulation, judgement or order binding upon Lessor or its property; (d) Lessee has the lawful right to lease the Units to Lessee pursuant to the terms of this Lease; and (e) there are no pending or, to the knowledge of Lessor, threatened actions or proceedings before any court or administrative agency that could have a material adverse effect on Lessor's ability to perform its obligations under this Lease.

24. Notices. Any notices given or required to be given hereunder shall be sufficient if transmitted and received by facsimile (with a confirmation copy sent by overnight air courier or certified mail), sent by overnight air courier, or deposited in the United States mail, postage prepaid, certified, return receipt requested, to the addresses set forth below or at such other address as the parties shall have specified in writing:

If to Lessor:

Helm Financial Corporation  
One Embarcadero Center, Suite 3700  
San Francisco, CA 94111  
FAX: (415) 398-4816  
San Francisco, CA 94111  
FAX: (415) 398-4816  
TEL: (415) 398-4510  
ATTN: President

If to Lessee:

Petroleum Coke Grinding, Inc.  
c/o Cemex Mexico, S.A. de C.V.  
Avenue Gomez Morin No. 350  
Plaza Internacional Cedetel Piso 8  
Col. Valle del Campestre  
66265 Garza Garcia, N.L., Mexico  
FAX: (011) 528-152-2880  
TEL: (011) 528-152-2877  
ATTN: Carlos E. Villarreal  
Railroad Operations  
Coordinator

25. Quiet Enjoyment. Lessor covenants and agrees that, so long as no Event of Default under Section 20 of this Lease shall have occurred and be continuing, Lessee's quiet enjoyment of the Units (and each of them) shall not be disturbed by any person lawfully claiming by, through or under Lessor. By acceptance of any assignment or transfer of this Lease, any assignee or transferee agrees, with and for the benefit of Lessee, that as long as Lessee shall perform all of its obligations and covenants hereunder, and notwithstanding any default of Lessor, Lessee's quiet enjoyment of the Units (and each of them) shall not be disturbed by such assignee or transferee or by any person lawfully claiming by, through or under such assignee or transferee.

26. Miscellaneous.

(a) Further Assurances. Upon execution of this Lease, Lessee shall execute in triplicate a Memorandum of Lease in the form attached hereto as Exhibit B to be filed and recorded by Lessor with the STB in accordance with 49 U.S.C. 11301. At its sole expense, Lessee shall promptly execute, acknowledge and deliver such further documents, and take any and all other action reasonably requested by Lessor from time to time as is necessary for the purpose of effectuating the intent and purposes of this Lease, as required by law or to protect the interests of Lessor in the Units and this Lease.

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(b) Severability. If any term, provision, covenant or restriction of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions shall remain in full force and effect and shall in no way be affected, impaired or invalidated. It is hereby stipulated and declared to be the intention of the parties hereto that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such which may be hereafter declared invalid, void or unenforceable.

(c) Entire Agreement; Amendment. This Lease, together with all exhibits and schedules attached hereto, contains the entire agreement of the parties regarding the subject matter hereof and supersedes all other agreements and understandings, oral or written, with respect thereto. This Lease may not be amended, modified or changed, or any provision of this Lease waived, except by instruments in writing signed by the parties hereto. No course of dealing between the parties will be deemed to modify, amend or discharge any part of this Lease or any rights or obligations of any party.

(d) Successors and Assigns. This Lease will bind and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

(e) Counterparts. This Lease together with all exhibits and schedules attached hereto may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original, but all such counterparts taken together shall constitute but one agreement.

(f) Law Governing; Waiver of Jury Trial. This Lease shall be construed and enforced, in accordance with the laws of the State of California, without reference to its choice of law provisions. THE PARTIES EACH IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN CONNECTION WITH ANY MATTER RELATING DIRECTLY OR INDIRECTLY TO THIS LEASE OR THE UNITS WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS LEASE.

(g) Construction. The language used in this Lease will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against either party. Lessee acknowledges that it has been represented by counsel in connection with this Lease or that it has voluntarily declined to seek representation by counsel. Lessee has not received nor is Lessee relying on advice concerning tax and legal matters from Lessor or its counsel.

(h) Brokers. Each party represents and warrants that it has not employed, authorized or appointed a broker in connection with the transactions contemplated by this Lease.

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(i) Survival. The respective representations, warranties, indemnities, covenants, obligations and agreements of the parties shall survive the expiration or earlier termination of this Lease or any extensions thereof.

(j) Attorneys' Fees. If any legal action is brought for the enforcement of this Lease or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Lease, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in such action or proceeding.

(k) Dispute Resolutions.

(i) Arbitration Except as set forth in subclause (1) of this clause (k) (i), any dispute arising out of or relating to this Agreement (or its breach, termination or validity) is to be resolved by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then obtaining, as modified herein.

(1) The arbitration will take place in Houston, Texas, and will result in a final award within three months of the initial notice of dispute by one party to the other (the "Notice"). Judgment Based on the arbitration award may be entered by any court with jurisdiction to do so. A single arbitrator will decide the dispute. The parties will attempt to agree on the identity of the arbitrator, but if they cannot agree within ten days of receipt of the Notice, the AAA will designate the arbitrator. However chosen, the arbitrator will be unaffiliated with either party and disinterested in the dispute, but knowledgeable concerning the general subject matter of the dispute.

(2) The hearing will take place no later than 60 days after the designation of the arbitrator. The arbitrator will have the power to issue an award that is just, equitable and within the scope of this Agreement, including compensatory damages, specific performance, ancillary relief and pre-award interest. The arbitrator will assess any arbitration costs or fees, including attorneys' fees if appropriate under law, but no punitive damages may be imposed. The arbitration will be the exclusive forum for ultimately resolving the dispute. Nevertheless, either party may seek a preliminary injunction or other provisional judicial relief to ensure the efficacy of a favorable arbitral award.

(ii) Judicial Resolution At the option of either Lessor or Lessee, disputes in which either party claims damages (exclusive of costs and fees) of \$1,000,000 or more may be resolved by litigation in a court of law with jurisdiction to hear it.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their duly authorized representative as of the day and year first above written.

LESSOR

HELM FINANCIAL CORPORATION

By: John F. Dains

Print Name: John F. Dains

Title: President

LESSEE

PETROLEUM COKE GRINDING, INC.

By: Jesús H. Flores

Print Name: Jesús H. Flores

Title: PCC Plant Manager / Assistant Secretary

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SCHEDULE A

To the Full Maintenance Lease Agreement dated July 13, 2000 between Helm Financial Corporation and Petroleum Coke Grinding, Inc.

THE UNITS

Description:

Twenty (20), 100-ton (286K), 5,250 cubic foot, four (4) compartment covered hopper railcars equipped with vibrator brackets, built by ACF in 1969-1972 and modified as follows:

(a) Existing four (4) piece aluminum trough hatch covers removed and replaced with the Quantum Plus 3 fiberglass covers manufactured by Aero Transportation Products, Inc. ("ATP"). The covers have a square end with three (3) square hatches identical to the design provided by Lessee ("ATP Hatches").

(b) Interior outlet gates disabled by tack welding 3/16", 2" x 2" flat bar at two ends of the outlet door sliding plate (weld to be easily broken).

(c) Interior outlet gates sealed using 6" wide aluminum roofing tape.

(d) Touch-up paint applied where necessary.

Reporting Mark  
and Numbers

Delivery Date

|                 |          |
|-----------------|----------|
| 1. HLMX 750036  | 07/18/00 |
| 2. HLMX 750084  | 07/18/00 |
| 3. HLMX 750098  | 07/18/00 |
| 4. HLMX 750139  | 07/19/00 |
| 5. HLMX 750142  | 07/13/00 |
| 6. HLMX 750145  | 07/18/00 |
| 7. HLMX 750151  | 07/13/00 |
| 8. HLMX 750159  | 07/13/00 |
| 9. HLMX 750203  | 07/18/00 |
| 10. HLMX 750214 | 07/19/00 |
| 11. HLMX 750221 | 07/13/00 |
| 12. HLMX 750227 | 07/13/00 |
| 13. HLMX 750264 | 07/13/00 |
| 14. HLMX 750267 | 07/19/00 |
| 15. HLMX 750285 | 07/13/00 |
| 16. HLMX 750287 | 07/18/00 |
| 17. HLMX 750299 | 07/13/00 |
| 18. HLMX 750439 | 07/18/00 |
| 19. HLMX 750444 | 07/13/00 |
| 20. HLMX 750447 | 07/19/00 |

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